

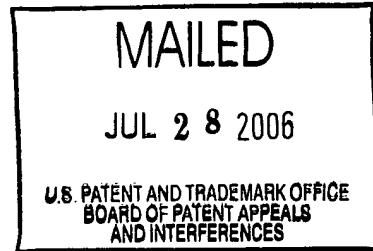
The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CARL HERMAN HAKEN

Appeal No. 2006-1857
Application No. 09/519,242



ON BRIEF

Before THOMAS, KRASS, and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-14, which constitute all of the claims pending in this application.

We reverse.

BACKGROUND

Appellant's invention is directed to a graphical interface which permits a user to seamlessly control information display on multiple devices with a single pointing device. According to Appellant, the user is allowed to select and control attached devices based upon the physical location of those devices

relative to a principal display screen (specification, page 2).

An understanding of the invention can be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

1. A system for processing and displaying data comprising:

a first processor which functions to generate a first image of a first graphical desktop user interface;

a first display screen disposed at a first screen location and connected to the first processor to display the first image;

a first pointing device connected to the first processor to control movement of a first cursor in the first image;

second processor means which include second visual display means and which are disposed at a second display location which is movable in relation to the first screen location of the first display screen;

means for communicating signals between the first processor and the second processor means;

means which determine a first relative direction, from the first screen location of the first display screen to the second display location of the second visual display means; and

program means which expand the display of the graphical desktop user interface onto the second visual display means at times when first processor is communicating with the second processor means and the second visual display means are also in the vicinity of the first display screen so that movement of the first pointing device in the first relative direction causes the first cursor to move to and to disappear at an edge of first display screen and further causes the appearance of a new visual indication on the second visual display means.

The Examiner relies on the following references:

Shimizu et al. (Shimizu) 6,219,027 Apr. 17, 2001
(filed Jan. 16, 1998)

Ahern et al. (Ahern) 6,388,658 May 14, 2002
(filed Dec. 2, 1999)

Claims 1-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimizu and Ahern.

Rather than reiterate the opposing arguments, reference is made to the brief (filed July 8, 2004), reply brief (filed November 10, 2004) and the answer (mailed November 2, 2004) for the respective positions of Appellant and the Examiner.

OPINION

In rejecting the claims, the Examiner relies on Shimizu for teaching substantially all of the claimed method steps related to a first processor displaying information on first and second screens and on Ahern for teaching multiple computers with plural displays and means for communicating with each other (answer, pages 4-5). Based on the teachings of these two prior art references, the Examiner concludes that the skilled artisan would have found it obvious to modify Shimizu with the multiple processors arrangement of Ahern to provide users and image display system wherein multiple devices may be controlled with a single pointing device (answer, pages 5-6).

Appellant argues that Shimizu describes a method of scaling the rate of cursor movement on displays having different sizes and has nothing to do with the claimed sensing of a physical direction between two pieces of apparatus (brief, page 4). Appellant further asserts that without knowledge of the relative direction, it is impossible to implement the recited means and steps (id.). Thus, Appellant argues that there is no reason to assume that the motion or appearance of Shimizu's cursors would change if the relative positions of the display screens depicted in figure 9 were to be changed (reply brief, page 2). With respect to Ahern, Appellant argues that the reference discloses a computer system with multiple display screens without indicating that the cursor disappears from one screen when it moves to another (brief, page 5).

In response to Appellant's arguments, the Examiner asserts that Shimizu teaches determining the relative direction since such information is needed in order to move the cursor from one screen to the other (answer, page 8). The Examiner further characterizes the movement of the cursor to the left in order to move from D2 to D1 as the step of determining the relative direction from one screen to the other (id.).

As a general proposition, in rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) and In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). A prima facie case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art. See In re Bell, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993); In re Fritch, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992); Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985). In considering the question of the obviousness of the claimed invention in view of the prior art relied upon, the Examiner is expected to make the factual determination set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. See also In re Rouffet, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998). Such

evidence is required in order to establish a prima facie case.

In re Piasecki, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984); In re Cofer, 354 F.2d 664, 668, 148 USPQ 268, 271-72 (CCPA 1966).

After reviewing Shimizu, we agree with Appellant (reply brief, page 3) that the two screens in Shimizu are placed in a known physical relationship to facilitate the cursor movement from one screen to the other without ever making an actual determination of relative positions. As shown in figures 11-12 of Shimizu, the relative positions of the two screens are fixed based on the relationship between the virtual coordinate system of the display systems (col. 6, lines 22-26). Shimizu further describes that the cursor coordinates are compared with a preset value representing the edge coordinate between the two displays and depending on whether it is larger or smaller than this value, the cursor is deemed to be located within one or the other display device (col. 7, lines 1-45). As such, the preset coordinate values determine the relative movement of the cursor without any need for determining the relative positions of the screens.

Therefore, what the Examiner characterizes as the claimed determining the relative direction from the location of the first

display screen to the location of the second display, is actually absent in ^Shimizu since there is only one direction for the cursor to move. As argued by Appellant (reply brief, page 3), the motion direction of Shimizu's cursor would not change even if the relative position of the display screens are changed.

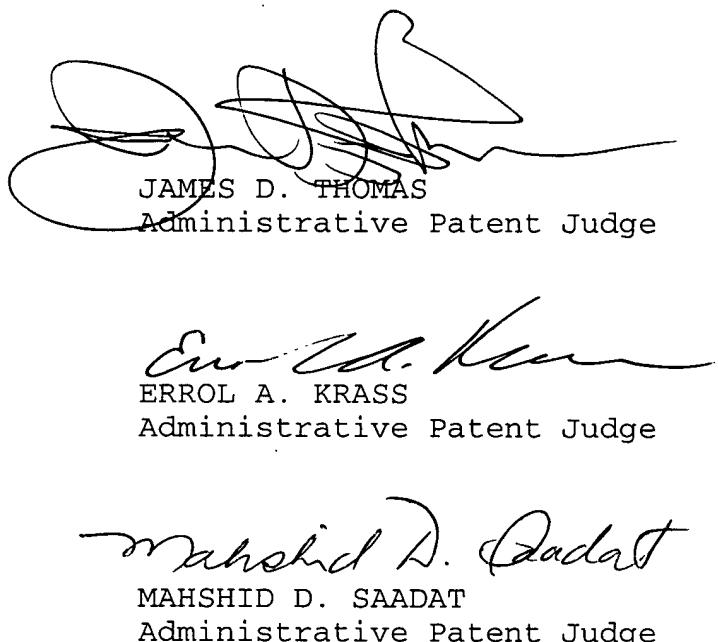
We also observe that Ahern, which describes user access to one or more computers from the user work station, includes nothing related to movement of the cursor in the determined relative position of screens. Even assuming, arguendo, that it would have been obvious to combine Shimizu with Ahern, the Examiner has not shown how the recited features may be derived from cursor movement in relation to the predetermined position of the screens. A rejection based on section 103 must rest upon a factual basis rather than conjecture, or speculation. "Where the legal conclusion [of obviousness] is not supported by the facts it cannot stand." In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967). See also In re Lee, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002) and In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). Accordingly, as the Examiner has failed to set forth a *prima facie* case of obviousness, we cannot sustain the 35 U.S.C. § 103 rejection of claims 1-14 over Shimizu and Ahern.

Appeal No. 2006-1857
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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-14 under 35 U.S.C. § 103 is reversed.

REVERSED



JAMES D. THOMAS)
Administrative Patent Judge)
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ERROL A. KRASS)
Administrative Patent Judge)
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MAHSHID D. SAADAT)
Administrative Patent Judge)

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